

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>ALLEN PRESBURY, SR.,</b>	:	<b>CIVIL ACTION</b>
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b>NO. 19-1791</b>
	:	
<b>JOHN WETZEL, et al.,</b>	:	
<b>Defendants.</b>	:	

**ORDER**

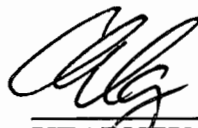
**AND NOW**, this 30<sup>th</sup> day of April 2019, upon considering *pro se* Plaintiff Allen Presbury, Sr.'s Motion for leave to proceed *in forma pauperis* (ECF Doc. No. 1), Prisoner Trust Fund Account Statement (ECF Doc. No. 3), Complaint (ECF Doc. No. 2), and for reasons in the accompanying Memorandum, it is **ORDERED**:

1. Plaintiff's Motion for leave to proceed *in forma pauperis* (ECF Doc. No. 1) is **GRANTED**;

2. Allen Presbury, Sr., #AF-5026, shall pay the full filing fee of \$350.00 in installments under 28 U.S.C. § 1915(b). The Court hereby directs the Warden of SCI Phoenix or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Mr. Presbury's inmate account; or (b) the average monthly balance in Mr. Presbury's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed under this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Mr. Presbury's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling

20% of the preceding month's income credited to Mr. Presbury's inmate account until the fees are paid. Each payment shall reference the docket number for this case;

3. The Clerk of Court shall send a copy of this Order to the Warden of SCI Phoenix;
4. The Complaint (ECF Doc. No. 2) is deemed **filed**;
5. The Complaint is **DISMISSED** for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii);
6. Mr. Presbury's due process claims are **DISMISSED with prejudice**;
7. Mr. Presbury's claim Defendants denied him access to the courts is **DISMISSED without prejudice** to file an amended complaint no later than **May 30, 2019** if he can state a plausible claim of a defendant denying him access to the courts. An amended complaint must clearly identify each defendant in the caption and clearly state the basis for Mr. Presbury's claims against each defendant. If Mr. Presbury files an amended complaint, the Clerk shall not make service until further Order;
8. The Clerk of Court shall send Mr. Presbury a blank copy of the Court's form complaint for a prisoner filing a civil rights claim bearing the civil action number for this case; and,
9. We may dismiss this case for failure to prosecute without further notice if Mr. Presbury fails to timely file an amended complaint.

  
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KEARNEY, J.